

1 PART III - LAND DEVELOPMENT AND GROWTH MANAGEMENT

2 Chapter 3-5 - PLANNING AND DEVELOPMENT

3 **Article XXIII. Earthmoving**

5 **Section 3.5.457 Intent and Purpose.**

6 It is the intent and purpose of this Article to regulate existing and future earthmoving operations in
7 such a manner as to minimize any direct, indirect and cumulative impacts detrimental to wildlife and
8 its habitat, public and private infrastructure, ground water and surface water, the public health, safety,
9 and welfare, current and surrounding land uses, and property values as a result of such activities within
10 the County.

12 **Section 3.5.458 Applicability.**

13 The provisions of this Article apply to any person in the unincorporated county presently conducting or
14 proposing to dig, mine, scrape, excavate, or in any manner conduct an activity that moves or removes
15 earth from its existing location and moves it to another location, whether on the same or another
16 lot. Compliance with the requirements of this Article shall not relieve any party from complying with
17 the requirements of any other applicable Federal, State, or local law.

19 **Section 3.5.459 Earthmoving Operations.**

20 All earthmoving operations are prohibited unless one of the following conditions is met.

- 21 **A.** The earthmoving operation is exempt from earthmoving review or permitting per this
- 22 Article.
- 23 **B.** A Construction Permit has been approved.
- 24 **C.** A Standard Earthmoving Permit has been approved.
- 25 **D.** A Specific Earthmoving Permit has been approved.

27 **Section 3.5.560 Application Requirement.**

28 A permit shall only be applied for by the owner of the lot on which the activity will occur or an entity
29 granted permission by the owner of the lot.

31 **Section 3.5.461 Staff Review and Action.**

32 County Staff shall review earthmoving operations governed by this Article for consistency with the
33 Comprehensive Plan, this Article, and the Code of Laws and Ordinances of Charlotte County.

35 **Section 3.5.462 Nonconformities.**

36 An earthmoving operation that has been approved by the County, which has a valid permit on the
37 effective date of this Article, and which is made nonconforming by this Article may continue to operate

in accordance with the regulations under which it was approved. The operation may not be modified, except to transfer the permit to a new holder, unless the operation complies with this Article.

Section 3.5.463 Earthmoving Operations Exempt from Earthmoving Review or Permitting.

- A. Grave digging.
- B. Well construction.
- C. Maintenance dredging of canals and stormwater ponds. A Specific Minor Earthmoving permit will be required for stockpiling of dredged material.
- D. Plowing, tilling and other similar soil alteration when in association with the cultivation of a crop for human or animal consumption or for renewable energy manufacture.
- E. Flower gardening and landscaping when conducted on a lot containing a habitable dwelling unit. The following are limits to the amount of earth that may be placed on the lot within a 5 year period for gardening and landscaping purposes:
 - 1. For a lot of one-half acre or less, thirty-two cubic yards.
 - 2. For a lot of greater than one-half acre and less than two and one-half acres, sixty-two cubic yards.
 - 3. For a lot of two and one-half acres or greater, ninety-two cubic yards.
- F. Garden supply retailing or wholesaling. The stockpiling of loose soil, gravel, mulch, and other similar gardening materials that are accessory to the business.
- G. Construction of nonresidential farm buildings.
- H. Construction of public roads and associated stormwater infrastructure.
- I. Earthmoving operations associated with the creation of livestock watering ponds, aquaculture ponds, irrigation ponds, and similar excavations for a bona fide agriculture use if these operations meet the following location, material removal, and design requirements:
 - 1. Location
 - a. If the lot is located in the Rural Service Area, it meets one of the following requirements:
 - 1) Zoned Agriculture General or Agriculture Estate with an Agriculture Future Land Use Map (FLUM) designation.
 - 2) Zoned Excavation and Mining with a Mineral Resource Extraction FLUM.
 - 3) Zoned Planned Development with a Rural Community Mixed Use FLUM.
 - 4) Zoned Residential Estates-1 or -5 with a Rural Estate Residential FLUM.
 - b. If the lot is located in the Urban Service Area, the site contains a vested bona fide agriculture use.

2. Material may be removed from the site if the lot owner submits a Performance Assurance for Roadway Maintenance (PARM); otherwise, all excavated material shall be retained on-site.
3. The following design requirements are adhered to for all excavations other than ditches:
 - a. The excavation footprint is equal to or less than 20 percent of the lot or 10 acres, whichever is less, inclusive of all other excavations on-site but exclusive of ditches.
 - b. The depth shall not exceed 15 feet.
 - c. The minimum setback from top of bank to any lot line, easement, and structure is 10 feet.

Section 3.5.464 Operation Standards.

A. General Earthmoving Operation Standards.

The following general standards of operation apply to all earthmoving operations:

1. If the earthmoving operation is located within two miles of a dwelling unit, the operation shall only be conducted between the hours of 7:00 a.m. and 6:00 p.m. Monday through Friday and between the hours of 7:00 a.m. and 12:00 p.m. on Saturday. These hours may be modified if all of the owners and residents, if not the same, of any dwelling units within that two mile limit give written approval of extended hours.
2. An earthmoving operation shall not have an adverse impact on the quality or quantity of groundwater or surface water of surrounding or downstream properties.
3. An earthmoving operation shall not impede or destroy historic flowways. All historic flowways on the earthmoving operation site shall be protected and, if necessary, enhanced.
4. An earthmoving operation shall not have an adverse impact on the 100-year floodplain.
5. An earthmoving operation shall not impact off-site drainage.
6. An earthmoving operation shall not have an adverse impact on environmentally sensitive habitat or any listed species either on-site or off-site.
7. An earthmoving operation shall protect wetlands and other surface waterbodies.
 - a. There shall be a minimum setback of 50 feet, vegetated with native species, from any activity associated with an earthmoving operation to:
 - 1) Any on-site wetland, unless mitigation for its destruction is approved, and any on-site waterbody that is not integral to the excavation activity.

- 2) Any off-site wetlands or waterbodies.
 - b. No activity other than the removal of exotic invasive species shall take place within this setback. Depending on the duration and intensity of the activity, plantings of native vegetation may be required within the buffer.
 - c. Sediment barriers, fencing, and signage, as necessary depending on the activity, shall be placed along the outside edge of the 50 foot setback as protection.
8. An earthmoving operation shall be operated in such a manner that airborne debris emissions are minimized.
 9. An earthmoving operation shall protect native topsoils to the greatest extent practicable. Any site which is identified by the Natural Resource Conservation Service as devoid of native topsoils shall be exempt from this requirement. Specific Major Earthmoving operations are exempt from this requirement.
 - a. The topsoil that occurs on a lot prior to development shall be retained or stockpiled throughout the development of the lot such that it will not be lost during the removal of earth or placement of fill.
 - b. Following fill placement and prior to landscaping, stockpiled topsoils shall be redistributed over the exposed portions of the site.
 10. An earthmoving operation shall stabilize stockpiles such that there is no migration of materials or particulate matter beyond the site. Stockpiles shall not be higher than 50 feet.
 11. An earthmoving operation shall protect drainage easements.
 - a. Existing front and side swales shall not be filled or obstructed in any way, and the adjacent lot's drainage shall be maintained. Easements may be altered with agreement of the easement holder.
 - b. Vehicles and equipment shall not be moved onto any site unless it is over an acceptably constructed and approved crossover.
 - c. Earthmoving operations requiring access across county rights-of-way shall install a temporary pipe in the right-of-way as required by the County Engineer. Temporary pipe must remain in place until permanent pipe is placed, if required, or the operation is completed.
 12. An earthmoving operation will require permits in accordance with Charlotte County law and applicable Federal and State law for any burning or incineration.
 13. An earthmoving operation site shall be safely secured against trespass. Depending on the duration of the activity, the intensity of the activity and adjacent uses, a fence or other similar means of securing the site may be required.

1 14. Depending on the duration of the activity, the intensity of the activity and adjacent
2 uses, an earthmoving operation site may be required to be aesthetically enhanced
3 with landscaped screening buffers or landscaped earthen berms.

4 15. Noise generated at an earthmoving operation site shall not exceed 65 decibels when
5 measured at the nearest dwelling unit or institutional use to the operation site.
6 Generators and pumps used during an earthmoving operation shall be well muffled.

7 **B. Critical Area Stabilization.**

8 The following additional standards apply to highly erodible or critically eroding areas
9 including, but not limited to, dams, dikes, levees, cuts, ditches and other artificial
10 watercourses, fill and spoil piles, and denuded gullied sites. These shall be stabilized to
11 conserve topsoil and prevent sedimentation of surface waters.

- 12 1. All graded areas of one acre or greater that will be subject to erosion by wind or
13 water for a period longer than twelve months prior to the establishment of finished
14 grade, agricultural crops, or permanent perennial vegetative cover shall be
15 stabilized. Unpaved roads and other surfaces designed for vehicular circulation are
16 exempt from this requirement.
- 17 2. All slopes of four horizontal to one vertical or steeper shall be sodded or otherwise
18 stabilized in accordance with guidelines of the Natural Resource Conservation
19 Service. In the event that the slope is a temporary result of earthmoving activities
20 associated with development of a site and said slope will be modified during the
21 length of the permit, stabilization shall not be required.
- 22 3. All swales and other manmade, nonstructural drainage conveyances shall be
23 stabilized with perennial grass cover; application may be through sodding,
24 hydroseeding, or other methods which achieve stabilization and are approved by the
25 County. In the event that the bottom of the conveyance is below seasonal high
26 groundwater levels, grass cover shall be required to extend down to the seasonal
27 high groundwater line only.

28 **C. Excavation Specific Operation Standards.**

29 The following additional standards apply to excavation operations.

- 30 1. The maximum depth of any excavation is two feet above the confining layer.
- 31 2. The finished slope of any excavation bank shall not be steeper than 4 to 1. For
32 agricultural excavations this slope is measured from top of bank to a depth no less
33 than 2 feet below the mean water table and for all other excavations this slope is
34 measured from top of bank to a depth no less than 5 feet below the mean water
35 table.
- 36 3. In order for stormwater to be discharged into an excavation, a Stormwater Plan
37 must be approved by the County or applicable water management district.

4. No solid or liquid waste shall be placed in an excavation except for clean debris in accordance with Subsection 3.5.467A7.
5. Dewatering operations shall provide minimum drawdown of the groundwater table outside the excavation site. Any dewatering operation that results in detrimental fluctuations of water levels in adjacent water bodies, wetland areas or water supply wells shall be terminated until such time as a satisfactory plan is developed and implemented to maintain water levels in such areas.
6. Blasting, drilling or hammering to fracture a rock surface, and similar activities, shall be limited to the hours between 9 a.m. and 4 p.m. Monday to Friday and 9 a.m. and 12 p.m. Saturday if conducted within one mile of any habitable dwelling unit or institutional use, unless otherwise approved. Trees and other buffering techniques may be required to mitigate noise impacts.
7. The permit holder shall provide traffic safety improvements such as signing, striping, barrier rails, turn and/or acceleration lanes with tapers, all meeting American Association of State Highway and Transportation Officials' Standards and which shall comply with the Manual of Uniform Traffic Control Devices, as required by the County Engineer.
8. Haul routes:
 - a. To the greatest extent possible, internal haul routes shall not be located within 250 feet of the lot boundary of the site, except at the lot exit and entry point.
 - b. An apron is required at the terminus of the internal haul route where it intersects the external haul route. Aprons shall be built to the specifications of the County Engineer.
 - c. The use of haul routes shall not have undue impact on persons and properties along or in proximity to a haul route.
 - d. It shall be the responsibility of the permit holder to mitigate impacts arising from the use of haul routes. Required mitigation measures may include any or all of the following:
 - 1) Watering and other dust control measures.
 - 2) Cleanup of material overspills.
 - 3) Maintenance grading of unpaved roads, shoulder grading and restoration.
 - 4) Pavement maintenance, including resurfacing, reconstruction, and patching.
 - 5) Safety improvements such as striping barrier rails, turn and acceleration lanes.

- d. Approval for use of a privately maintained right-of-way must be gained from each party responsible for maintenance of that right-of-way in order for the operation to use it as a haul route.

D. Filling, Grading, Stockpiling Specific Operation Standards.

The following additional standards apply to filling, grading, or stockpiling operations.

1. All drainage leaving development sites shall be filtered by sediment barriers. It shall be the responsibility of the developer to maintain the effectiveness of filtration by regular clearing of captured sediments or by refurbishment, as necessary. Captured sediments are to be disposed of on upland portions of the development site.
2. Best Management Practices shall be used to barricade the toe of all exposed slopes which meet or exceed four horizontal to one vertical. These shall be placed and maintained such that drainage will not overflow or bypass the barrier and shall remain in place until the slope is leveled or permanently stabilized.
3. All graded areas of one acre or greater which will result in exposure of denuded soil during the months of November through March shall employ dust control procedures consistent with the guidelines of the Natural Resource Conservation Service or the FDEP Florida Development Manual.

Section 3.5.465 Performance Assurance for Road Maintenance (PARM).

- A. A PARM may be required of each earthmoving operation that removes material from a site, as determined by the County Engineer based on applicable road conditions and anticipated intensity of the activity.
- B. The amount of the performance assurance shall be calculated as required in the fee resolution adopted by Board.
- C. The County Engineer shall determine whether it is necessary for the County to use the PARM to maintain roads used by the operation.
- D. For Standard and Specific Earthmoving Operations, the PARM shall be submitted upon approval of the earthmoving application and no permit shall be issued until the PARM is submitted. The PARM shall remain in effect throughout the duration of the permit term, plus one year.
- E. In the case of Section 3.5.463I, the PARM shall be submitted to the County prior to commencement of the operation. The County shall inspect the haul route(s) within 10 working days of being informed that the operation is complete and determine if the PARM is required for repair of the haul route(s). The PARM shall remain in effect until the County Engineer has determined the PARM is not needed.

Section 3.5.466 Standard Earthmoving and Construction Permits.

1 The following activities shall not require review and approval by the Earthmoving Administrator or the
2 Hearing Officer but do require County review and approval prior to the commencement of any
3 earthmoving activity. Unless otherwise indicated below, material may be removed from earthmoving
4 site and a PARM is not required.

5 **A. Standard Earthmoving Permits.**

6 The following activities require a Standard Earthmoving Permit. No earthmoving activity shall
7 occur on-site prior to the approval of this permit.

- 8 1. Earthmoving activities for projects receiving Final Site Plan approval that do not
9 meet the thresholds of an activity requiring a Specific Earthmoving Permit. This
10 includes, but is not limited to, earthmoving activities that occur prior to approval of
11 a building permit or final plat.

- 12 a. Retention and detention stormwater ponds shall meet the following material
13 removal and design requirements:

- 14 1) A maximum of 10 percent or 15,000 cubic yards, whichever is greater,
15 of material may be removed from the site. If material is to be
16 removed, a PARM is required.

- 17 2) The following design requirements shall be adhered to:

- 18 a) The excavation footprint will be equal to or less than 25
19 percent of the lot if within an Impaired Water Body Area and
20 20 percent of the site for all other areas, inclusive of all
21 previous excavations on-site.

- 22 b) The depth shall not exceed 12 feet.

- 23 b. Stockpiling shall only be allowed for material used on the construction site.
24 This activity shall cease when there is no longer a valid standard earthmoving
25 or construction permit for the site.

- 26 2. Earthmoving activities associated with the creation of residential ponds. The activity
27 shall meet the following zoning and design requirements:

- 28 a. The lot contains a habitable dwelling unit on land zoned for residential use.

- 29 b. The following design requirements are adhered to:

- 30 1) The maximum excavation footprint will be equal to or less than ten
31 percent of the lot or one acre, whichever is less, inclusive of all
32 excavations on-site.

- 33 2) The depth shall not exceed 12 feet.

- 34 3) There will be a minimum setback of 25 feet from top of bank to any
35 lot line, easement, and structure.

- 36 3. Earthmoving activities associated with the creation of tracks and trails used by off-
37 road vehicles, motorbikes, bicycles and other similar apparatuses.

4. Earthmoving activities associated with the repair, replacement or expansion of septic tanks and drain fields.
5. Raising the elevation of a portion of a lot. This shall only be approved if the lot contains a habitable dwelling unit. The maximum height that can be reached is one foot above natural grade.
6. Earthmoving activities associated with development of active and passive parks, such as playgrounds, ball courts and fields, trails, and associated parking, unless a construction permit is obtained.
7. Stockpiling of dredge spoils. Dredge spoil shall only be stored on vacant residential, vacant commercial, or vacant industrial zoned lots provided:
 - a. The storage occurs no longer than one year.
 - b. There shall be no removal of or harm to native plant or animal species, except grasses, to accommodate the storage.
 - c. The lot is restored to its original condition, except that no invasive exotic plants shall be restored.

B. Construction Permits.

The installation of septic tanks, irrigation pipe, construction or destruction of pools, commercial landscape, slabs, driveway construction or repair, seawall construction, permits to construct or demolish buildings, tree removal and such other similar development activities are exempt from obtaining an earthmoving permit; however, the earthmoving standards will continue to apply to these activities.

Section 3.5.467 Specific Earthmoving Permits.

The following categories consist of activities that require review and approval by the Earthmoving Administrator or Hearing Examiner. These activities require a Specific Earthmoving Permit. No earthmoving activity shall occur on-site prior to the approval of this permit.

A. Specific Minor Earthmoving.

The following operations are subject to review and approval by the Administrator.

1. Minor Excavation for Agricultural Purposes (Ag Minor Excavation).

These excavations are for bona fide agriculture uses. The following location, material removal and design requirements apply:

- a. The lot is located in the Rural Service Area, and:
 - 1) Zoned Agriculture General or Agriculture Estate with an Agriculture Future Land Use Map (FLUM) designation.
 - 2) Zoned Planned Development with a Rural Community Mixed Use FLUM.

- b. All excavated material may be removed from the site if the permit holder submits a PARM; otherwise, all excavated material shall be retained on-site.
- c. The following specific design requirements shall be adhered to:
 - 1) The excavation footprint is equal to or less than 20 percent of the lot or 20 acres, whichever is less, inclusive of all previous excavations on-site but exclusive of ditches.
 - 2) The depth shall not exceed 25 feet.
 - 3) There shall be a minimum setback of 50 feet from top of bank to any lot line, easement and structure.

2. Minor Excavation for Development Purposes (Development Minor Excavation).

These excavations are for the provision of larger sized stormwater retention or detention for an approved development within the Urban Service Area, in a Rural Community Mixed Use development, or in Development of Regional Impact. This may also be used for golf course development, water parks, or other such distinctive uses.

The following timing, material removal and design requirements apply:

- a. The earthmoving application review shall occur concurrent with preliminary and final site plan review. Final approval of the permit shall occur prior to final site plan approval. Final site plan approval shall not be granted until the earthmoving permit is approved.
- b. The maximum allowable removal of material from the site is 10 percent or 15,000 cubic yards, whichever is greater, if the permit holder submits a PARM; otherwise, all excavated material shall be retained on-site.
- c. The following design requirements shall be adhered to:
 - 1) The excavation footprint may be approved for up to 35 percent of the lot, inclusive of all previous excavations on-site.
 - 2) The applicant shall provide proof that the requested size is necessary for development of the lot.
 - 3) The depth shall not exceed 20 feet.
 - 4) There shall be a minimum setback of 50 feet from top of bank to any lot line, easement, and structure.

3. Minor Excavation for Reconfiguration of a Lake (Lake Minor Excavation).

These excavations are for changing the configuration of an existing lake, increasing the size, or increasing the depth more than would occur with a maintenance dredge. The Administrator may require this item to undergo review as a Specific Major Earthmoving operation if the Administrator determines that the impacts of the operation could impact the health, safety or welfare of the public or the environment. The material removal and setback requirements apply:

- a. The maximum allowable removal of material from the site is 10 percent or 15,000 cubic yards, whichever is greater, if the permit holder submits a PARM; otherwise, all excavated material shall be retained on-site.
- b. There shall be a minimum setback of 50 feet from top of bank to any lot line, easement, and structure.

4. Minor Excavation for a New Canal or Increasing the Width (Canal Minor Excavation).

These excavations are for increasing the top width of an existing canal or dredging a new canal. The following material removal and setback requirements apply:

- a. The maximum allowable removal of material from the site is 10 percent or 15,000 cubic yards, whichever is greater, if the permit holder submits a PARM; otherwise, all excavated material shall be retained on-site.
- b. A canal top-of-bank may extend to the limits of the easement, right-of-way, or to adjacent lot lines.

5. Raising Lot Elevation (RLE).

This is for purpose of increasing the elevation of a portion of a lot more than one foot above natural grade; this includes aggregated height. The following zoning, fill placement, setback and reclamation requirements apply:

- a. The lot must contain a habitable dwelling unit on land zoned for residential use.
- b. The maximum amount of fill that can be placed on a lot of five acres or less is 130 cubic yards and of greater than five acres is 260 cubic yards.
- c. Any stockpiles shall be located a minimum of 50 feet from any lot line or easement.
- d. All areas shall be seeded, sodded, or planted with native vegetation immediately after grading is complete.

6. Stockpiling Fill (Stockpiling).

This is for the purpose of stockpiling excavated material on a lot which is not permitted for an earthmoving operation or construction operation.

- a. Stockpiling as a principal use of land may only occur on a lot with an IL Zoning and Low Intensity Industrial FLUM, IG Zoning and Heavy Industrial FLUM, EM zoning and Mineral Resource Extraction FLUM, or AG or AE zoning and Agriculture FLUM.
- b. These stockpiles shall not be located within 50 feet of a lot line or easement, 200 feet of a habitable dwelling unit or institutional use, and 50 feet of an agricultural or industrial structure.

- c. All areas used for stockpiling shall be reclaimed by plantings with native groundcover, shrubs, and trees, or shown to be used for another legal purpose.

7. Filling of an Excavation (Clean Fill).

This is for the purpose of filling in an excavated area. The following requirements apply:

- a. Only clean debris as defined in 62-701.200 F.A.C., as may be amended, and clean gravel, sand, rock, and clay may be placed within an excavation.
- b. Clean debris shall only be placed to within five feet of top of bank. The remaining five feet to top of bank shall be filled with soil.
- c. The type, tonnage and origin of the clean debris shall be reported on a quarterly basis to the Administrator.
- d. All filled areas shall be reclaimed by plantings with native groundcover, shrubs, and trees, or shown to be used for another purpose.

B. Specific Major Earthmoving.

The following activities are subject to review and recommendation by the Administrator and approval by a Hearing Examiner.

1. Major Excavation for Agricultural Purposes (FARMS Excavation).

These excavations are for the provision of surface water storage for a bona fide agriculture use. The following requirements apply:

- a. The lot is located in the Rural Service Area and:
 - 1) Zoned Agriculture General or Agriculture Estate with an Agriculture FLUM designation.
 - 2) Zoned Planned Development with a Rural Community Mixed Use FLUM.
- b. The site must be approved by or be undergoing approval by a State or Federal agency involved in cost sharing expenses for the earthmoving activity. For example, review by the Southwest Florida Water Management District under the Facilitating Agricultural Resource Management Systems program. An approved application is required from the appropriate agency prior to this application being scheduled before the Hearing Examiner.
- c. All excavated material may be removed from the site if the permit holder submits a PARM.
- d. The following design requirements shall be adhered to:
 - 1) The excavation footprint shall not exceed 10 percent of the acreage to be irrigated or 100 acres, whichever is more restrictive.
 - 2) There shall be a minimum setback of 150 feet from top of bank to any lot line not abutting residential zoning, 1,000 feet to any lot line

1 abutting residential zoning, and 1,000 feet to any habitable dwelling
2 unit or institutional structure unless the occupants and owners, if not
3 the same, of the affected structures consent to a reduced setback.

4 **2. Major Excavation for Commercial Purposes (Commercial Excavation).**

5 These excavations are for supplying building material. The following requirements
6 apply:

- 7 a. The lot is located in the Rural Service Area and zoned Excavation and Mining
8 with a Mineral Resource Extraction FLUM.
- 9 b. All excavated material may be removed from the site if the permit holder
10 submits a PARM.
- 11 c. The following specific design requirements shall be adhered to:
- 12 1) The excavation footprint shall not exceed 100 acres.
- 13 2) There shall be a minimum setback of 250 feet from top of bank to any
14 lot line not abutting residential zoning, 1,000 feet to any lot line
15 abutting residential zoning, and 1,000 feet to any habitable dwelling
16 unit or institutional structure unless the occupants and owners, if not
17 the same, of the affected structures consent to a reduced setback.
- 18 d. Uses that are considered accessory to a commercial excavation are asphalt
19 and concrete plants. These uses must be requested and identified within the
20 earthmoving application and may only exist for the duration of the
21 earthmoving permit.
- 22

23 **Section 3.5.468 Earthmoving Operations Not Identified by this Article.**

24 Any operation not identified in this Article shall be reviewed on a case-by-case basis by the
25 Administrator and will be assigned to an appropriate category.

26

27 **Section 3.5.469 Specific Earthmoving Permit Application Requirements.**

28 **A. Information Required in an Application.**

29 An application for a Specific Earthmoving Permit shall include, at a minimum, the items checked
30 below. The application shall be deemed complete if all of the checked information is included
31 in the application. Other information may be required by the Administrator upon sufficiency
32 review of the application. The County will accept the same application information that an
33 applicant submits to a state agency, or an approved permit, if the applicant chooses to use that
34 information to prove that the operation will meet the standards of this code.

| Information Required in Application | Specific Minor Earthmoving | Specific Major Earthmoving |
|-------------------------------------|----------------------------|----------------------------|
|-------------------------------------|----------------------------|----------------------------|

| Information Required in Application | Specific Minor Earthmoving | Specific Major Earthmoving |
|--|--|-----------------------------------|
| Completed application form | ✓ | ✓ |
| Monetary payment | ✓ | ✓ |
| Affidavits | ✓ | ✓ |
| Deed or other Proof of Ownership | ✓ | ✓ |
| Location Map | ✓ | ✓ |
| Legal description and boundary survey of the project site | ✓ | ✓ |
| Project Narrative | ✓ | ✓ |
| Variance Request | Required if a variance is being requested Section 3.5.472 | |
| Excavation Plans | Required for Ag Minor, Development Minor, Lake Minor and Canal Minor Excavations | ✓ |
| Soil Boring Report | As required by Section 3.5.469D | |
| Site Plans | Required for RLE, Stockpiling, and Clean Fill | |
| Reclamation Plans | ✓ | ✓ |
| Reclamation Narrative | ✓ | ✓ |
| Environmental Surveys | ✓ | ✓ |
| Environmental Impact Statement | | ✓ |
| Tree Survey and Impact Statement | Required for all except Clean Fill | ✓ |
| Hazardous Material Assessment | ✓ | |
| Traffic Impact Analysis | ✓ | ✓ |
| Landscape Plan | As required by Sections 3.5.464, A7b and A14 and 3.5.464, C8 | |
| Stormwater Plan | As required by Section 3.5.464, C4 | |
| Blasting Plan and Fire Marshall Blasting Permit or statement indicating no blasting will occur | Required for the excavations only | ✓ |
| Rock Crushing Plan or statement | Required for the | ✓ |

| Information Required in Application | Specific Minor Earthmoving | Specific Major Earthmoving |
|--|----------------------------|----------------------------|
| indicating no rock crushing will occur | excavations only | |
| Copies State and Federal permits or exemption letter | ✓ | ✓ |
| Performance Assurance for Roadway Maintenance projected costs report | ✓ | ✓ |

B. Project Narrative.

A project narrative shall include the following information:

1. Description of all activity that will take place on-site.
2. Type and amount of material to be moved, removed, or stored.
3. Probable schedule.
4. Who maintains ownership of the site and operation; who is the responsible party for the operation.
5. Proposed legal measures to provide for perpetual maintenance of any common or dedicated open space, easements, dedications and reservations.
6. Dust control measures.
7. Noise control measures.
8. Description of how the site will be secured.

C. Excavation Plans.

1. Excavation plans shall include the following information:
 - a. Ownership and boundary lines, including bearings and distances superimposed over an aerial photo. Out-parcels within the site shall be clearly indicated along with access to these outparcels.
 - b. Size, shape, depth and location of the proposed excavation, including recharge trenches and settling ponds.
 - c. Locations of all proposed spoil piles and stockpiles of excavated material.
 - d. Within the site and within one-half mile of the site identify right-of-ways, easements, and lot ownership; natural physical features such as flowways, 100-year floodplain, wetlands, lakes and critical wildlife habitat; manmade features such as utility lines, wells, septic systems, storage tanks, drainage ditches, houses, and barns. Provide the distance from the site and the excavation footprint to these features.
 - e. Show access roads into the site. Internal haul routes shall be identified along with roadway specifications, drainage requirements and signage locations and type. Identify maintenance measures.

- f. If material is to be hauled off-site, identify all possible external haul routes within a one mile radius and whether these routes are publicly or privately maintained. Show clear line of site distances at entranceway from internal haul route to external haul route. Show what improvements are necessary to external haul routes.
 - g. Topographic survey showing existing and proposed grades related to NGVD.
 - h. Proposed slopes during excavation, include a cross-sectional drawings referring to NGVD showing the proposed depth(s) of excavation, slope of the side and depth of water.
 - i. Detailed erosion control methods.
 2. Excavation plans shall include the following if required by proposed excavation conditions:
 - a. Phases of the excavation.
 - b. Location and preservation plan for all wetlands and other habitats to be preserved, including setbacks and buffers.
 - c. Location, preservation and restoration plan for any historic flowways.
 - d. Soil borings locations shown in the soil boring report.
 - e. Proposed method of de-watering and use of settling ponds.
 - f. Location of all staff gauges.
 - g. Location of rock crushing, asphalt plant or concrete plant operations.

D. Soil Boring Report

Within the excavation footprint, at least two borings are required for excavations less than twenty acres. For excavations greater than twenty acres, one boring per ten acres, or fraction thereof, is required. All borings are to be performed through a soil-testing laboratory and copies must be signed and sealed by an engineer or geologist.

E. Site Plans

Site plans shall include, but not be limited to:

1. Ownership and boundary lines, including bearings and distances.
2. Location of haul routes or access roads.
3. Adjoining and internal right-of-ways, easements, and lot ownership; natural physical features such as flowways, 100-year floodplain, wetlands, lakes and critical wildlife habitat; all manmade features such as utility lines, wells, septic systems, storage tanks, drainage ditches, houses, and barns.
4. Topographical elevations of the site.
5. Proposed elevations, if applicable.
6. Location of stockpiles, if applicable.
7. Detailed erosion control methods.

1 **F. Reclamation Plans.**

- 2 1. Reclamation plans shall include, but not be limited to:
- 3 a. A description of the manner in which restructuring, reshaping and re-vegetation
- 4 will be accomplished.
- 5 b. A description of how the site will be maintained at least five years after the
- 6 reclamation is complete.
- 7 c. A depiction of at least two typical cross-sections each, with elevations, generally
- 8 oriented north to south and east to west, showing areas to be filled, back-filled,
- 9 reconstructed and/or reshaped. Water elevations and final grades shall also be
- 10 shown.
- 11 d. A depiction of what natural and manmade features will exist when the
- 12 reclamation is complete. This requirement includes the depiction of mitigation or
- 13 preservation areas established for wildlife species, required fences, walls,
- 14 vegetative buffers and littoral zones.
- 15 2. For Commercial Excavations the following vegetative reclamation features are also
- 16 required:
- 17 a. At least 40 percent of the littoral zone of the reclaimed shoreline of the
- 18 excavated area shall be planted with appropriate emergent, floating and
- 19 submerged native plant species. At least 15 percent of the reclaimed
- 20 shoreline of the excavation footprint shall be made into a littoral shelf
- 21 designed to have less than 24 to 20 inches of water during normal water
- 22 level periods and planted with at least three different native aquatic
- 23 species. The type and amount of plantings shall be depicted on the
- 24 reclamation plans. All plantings shall cover a minimum of 85 percent of the
- 25 surface area of the planted littoral zone and shelf.
- 26 b. An upland landscaped area is required to be planted along the reclaimed
- 27 perimeter of the excavation footprint. The type and amount of plantings
- 28 shall be depicted on the reclamation plans. Such buffer shall utilize the
- 29 following standards:
- 30 1) Required plant units per 100 feet of the perimeter of the excavated
- 31 area shall be 3 canopy trees, 1 accent/understory tree and 5 shrubs.
- 32 2) The buffer shall be a minimum width of 20 feet.
- 33 3) Canopy trees for use within the buffer include:
- 34 Bald Cypress Taxodium distichum
- 35 Gumbo Limbo Bursera simaruba
- 36 Laurel Oak Quercus laurifolia
- 37 Live Oak Quercus virginiana

- | | | |
|----|---|----------------------------------|
| 1 | Sabal Palm | Sabal palmetto |
| 2 | Sea Grape | Coccoloba uvifera |
| 3 | Southern Slash Pine | Pinus elliottii var. densa |
| 4 | 4) Understory trees for use within the buffer include: | |
| 5 | Florida Privet | Forestiera segregate |
| 6 | Red Cedar | Juniperus virginiana |
| 7 | Silver Buttonwood | Conocarpus erectus var. sericeus |
| 8 | Simpson's Stopper | Myrcianthes fragrans |
| 9 | Stoppers | Eugenia spp. (natives only) |
| 10 | Wax Myrtle | Myrica cerifera |
| 11 | Wild Coffee | Psychotria undata |
| 12 | 5) Shrubs for use within the buffer include: | |
| 13 | Beautyberry | Callicarpa americana |
| 14 | Eastern Gammagrass | Tripsacum dactyloides |
| 15 | Fakahatchee Grass | Tripsacum dactyloides |
| 16 | Firebush | Hamelia patens |
| 17 | Firecracker Plant | Russelia equisetiformis |
| 18 | Florida Privet | Forestiera segregate |
| 19 | Saw Palmetto | Serenoa repens |
| 20 | Simpson's Stoppers | Myrcianthes fragrans |
| 21 | Wax Myrtle | Myrica cerifera and cvs. |
| 22 | 6) In no case shall there be a separation of greater than 50 feet between | |
| 23 | trees. | |
| 24 | 7) Other indigenous species may be approved by the County for use in | |
| 25 | the landscaped area. | |
| 26 | 8) Clustering of vegetation may be allowed on a case-by-case basis. | |
| 27 | 9) All planted material shall be Florida #1 grade according to Florida | |
| 28 | Department of Agriculture and Consumer Services, Grades and | |
| 29 | Standards; trees shall be minimum three-gallon size; shrubs shall be | |
| 30 | minimum one (1) gallon size, and minimum height of eighteen (18) | |
| 31 | inches. | |
| 32 | c. Landscape plans shall be designed, signed and sealed by a Florida Registered | |
| 33 | Landscape Architect. | |

G. Reclamation Narrative.

This narrative shall describe how the site will be reclaimed upon completion of the earthmoving operation.

H. Environmental Surveys.

1. All environmental surveys shall have been completed within one year of application submittal.
2. Environmental surveys include:
 - a. FLUCCS map and report of all land covers and forms on the site according to FLUCCS category level 3 at scale of 1 inch equals 200 feet, unless a different scale is approved in writing by the Administrator in advance of application submittal.
 - b. A listed species survey performed in accordance with State or Federal survey guidelines.
 - c. A tree survey, including identification of all heritage trees.

I. Environmental Impact Statement.

An EIS is a narrative and graphic report that analyzes and illustrates the direct, indirect and cumulative impacts of an earthmoving operation upon vegetation, wildlife, wildlife habitat, endangered or threatened species, air quality, water quality, and other issues concerning the public's health, safety and welfare.

1. An EIS shall be prepared by individuals or firms that are qualified in the various disciplines involved in an EIS. The qualifications of every person involved in preparing the statement will be included along with portion(s) they were involved in.
2. The EIS shall include an analysis of the following:
 - a. Integrated hydrologic modeling of surface water and groundwater resources, during natural, operating, and post-construction conditions in normal, wet, and drought scenarios, particularly:
 - 1) Stacking of water (including sheet flow) up gradient of the operation site, with particular attention paid to the effects of berms, ditches, or other water control structures.
 - 2) Potential loss of sheet flow or other surface flows down gradient of the operation site.
 - 3) Potential reductions in flows to creeks, streams, rivers, or other natural surface waters.
 - 4) The quality of any off-site surface water discharges which may occur under any conditions up to and including a 100-year storm event.
 - 5) The dimensions of land areas that will experience impacts from the lowering of groundwater levels due to dewatering or other aspects of the excavation.
 - 6) Impacts to the base flow of surface waters within the subject surface water drainage basin.

1 7) Impacts to ground water resulting from increased evaporation from
2 lakes and other post-mining landforms resulting from the
3 excavation.

4 b. Vegetation and wildlife, particularly:

5 1) Impacts on-site and to adjacent natural communities.

6 2) Impacts to, and mitigation proposed for, wildlife species that reside
7 on or utilize the site, particularly those listed by the U.S. Fish and
8 Wildlife Service or Florida Fish and Wildlife Conservation Commission
9 as endangered, threatened, or of special concern.

10 c. Air quality, particularly:

11 1) Dust from any excavation, blasting, stockpiling, sorting, vehicular
12 circulation, or other activity.

13 2) Any exhaust or other emissions from equipment associated with the
14 excavation.

15 d. Noise from any equipment, blasting, stockpiling, sorting, vehicular
16 circulation, or other activity.

17 e. Hazardous materials and other potential contaminants, including any
18 naturally occurring elements, particularly radiation, that could become
19 potentially harmful to the public if concentrated by any process associated
20 with the proposed operation, such as dewatering, settling, stockpiling, and
21 sorting.

22 3. All calculations, assumptions, survey methodologies, and other technical
23 components of the studies will be documented.

24 4. The EIS shall include any other information required by the Administrator due to
25 unique circumstances.

26 **J. Hazardous Materials Assessment.**

27 Assess the site for hazardous materials and other potential contaminants, including any
28 naturally occurring elements, particularly radiation, that could become potentially harmful to
29 the public if concentrated by any process associated with the proposed excavation.

30 **K. Traffic Impact Analysis.**

31 The methodology for this analysis will be prescribed by the County's Transportation Planner or
32 County Engineer.

33
34 **Section 3.5.470 Specific Earthmoving Permit Performance Assurance for Land Reclamation (PALR).**

35 **A.** This is required of each Specific Major Earthmoving operation and may be required for
36 Specific Minor Earthmoving operations in a form acceptable to the County Attorney. The
37 PALR shall remain in effect throughout the duration of the permit term, plus one year. The

amount of the performance assurance shall be calculated as required in the fee resolution adopted by the Board.

- B.** It is the permit holder's and lot owner's responsibility to reclaim an earthmoving site prior to the expiration of a permit. Should this action not occur, the County will utilize the PALR to reclaim the site if no other satisfactory solution has been agreed upon with the permit holder or lot owner. If a PALR does not exist and the County must reclaim an earthmoving site, a lien shall be placed on the lot in an amount equal to that expended by the County to reclaim the site.

Section 3.5.471 Specific Earthmoving Permit Process and Procedures.

A. Pre-Application Meetings.

A pre-application conference is mandatory for new applications and Major Modifications.

B. Earthmoving Permit Review Process.

1. Specific Minor Earthmoving Operation.

- a. Applicants shall submit an application. An application shall be void within one year of the date that it was submitted. An extension of one year in total of the expiration date of the application may be requested of the Administrator, provided:
 - 1) The extension is requested at least 14 calendar days prior to the expiration date.
 - 2) The applicant is able to demonstrate that the extension is required because of a delay caused by permitting agencies and not to any fault of the applicant.
- b. The Administrator will review the application for completeness within five working days of submittal and will notify the applicant of any deficiencies. If the Administrator deems the application to be incomplete, all review of the application shall cease until such time as the application is supplemented by the applicant and deemed complete by the Administrator.
- c. Once the Administrator has determined that the application is complete, sufficiency review will begin. The application will be forwarded to other Staff for their review.
- d. Staff shall conduct their review and provide the Administrator a report containing comments and recommendations concerning the content of the application, whether it should be approved or not approved as submitted and specific information needed or permit conditions deemed necessary to comply with the provisions of this Article and other applicable law.

- 1 e. Upon receipt of the aforementioned reports, the Administrator shall
2 determine whether further information is required from the applicant or a
3 decision of approval or denial can be made. Should it be determined that
4 more information is required, the applicant will be informed and all further
5 review of the application will cease until the information is received.
- 6 f. Once any requested information is received, the Administrator, and other
7 Staff as appropriate, will conduct further review. When the Administrator
8 determines that no further information from the applicant is necessary and
9 all Staff reviews have been finalized, the Administrator will prepare a letter
10 to the applicant explaining the decision made, the reasons for the decision,
11 and, if approved, any special conditions on the operation. In the event the
12 Administrator approves the application:
- 13 1) The applicant shall satisfy any outstanding requirements.
 - 14 2) A permit shall be issued. The permit holder and the lot owner, if not
15 the same, shall be held responsible for complying with all regulations
16 and conditions of the permit and the Code of Laws and Ordinances of
17 Charlotte County.
 - 18 3) The permit shall be posted at the site throughout the term of the
19 activity.

20 **2. Specific Major Earthmoving Operation.**

- 21 a. Applicants shall submit an application. An application shall be void within
22 two years of the date that it was submitted. An extension for one year in
23 total of the expiration date of the application may be requested of the
24 Administrator, provided:
- 25 1) The extension is requested at least 60 calendar days prior to the
26 expiration date.
 - 27 2) The applicant is able to demonstrate that the extension is required
28 because of a delay caused by permitting agencies and not to any fault
29 of the applicant.
- 30 b. The Administrator will review the application for completeness within ten
31 working days and notify the applicant of any deficiencies. If the
32 Administrator deems the application to be incomplete, all review of the
33 application shall cease until such time as the application is supplemented by
34 the applicant and deemed complete by the Administrator.
- 35 c. Once the Administrator has determined that the application is complete,
36 sufficiency review will begin. The application will be forwarded to other Staff
37 for their review.

- 1 d. The applicant is responsible for providing the county with all necessary
2 information. In the event that Staff deems the information to be insufficient,
3 the Administrator shall provide the applicant with written notice or notices
4 of such insufficiencies as soon as practicable. The failure of the Administrator
5 to mention any insufficiencies in any notice shall not affect the county's right
6 to require that the insufficiencies be addressed by the applicant when
7 noticed.
- 8 1) Staff may cease review of the application until such time as all
9 insufficiencies are addressed to the County's satisfaction.
- 10 2) If the applicant refuses or is unable to address the insufficiencies to
11 the satisfaction of the Administrator, the applicant may request and
12 receive a hearing on the application as presented.
- 13 e. When the Administrator determines that the information from the applicant
14 is sufficient and all Staff reviews have been finalized, the Administrator will
15 set a public hearing before the Hearing Examiner and finalize a Master
16 Report, which shall include findings related to consistency with the
17 Comprehensive Plan, this Article, and the Code of Laws and Ordinances of
18 Charlotte County, a recommendation of approval or denial, and any special
19 conditions to be placed on the operation in the event of an approval. If the
20 Administrator's recommendation is denial, the applicant may request the
21 Administrator continue the hearing in order for the applicant to provide
22 further information to the Administrator that may change the
23 recommendation to approval.
- 24 1) In the request for continuance, the applicant must describe the
25 information to be provided and the reasons why it is believed that
26 this new information is relevant to the recommendation of the
27 Administrator.
- 28 2) The continuance may not extend the process beyond the application
29 deadline.
- 30 f. When an application is within 59 calendar days of the expiration date, the
31 Administrator shall set a public hearing on the application to occur prior to
32 the expiration date of the application. The Master Report and the
33 recommendation for approval or denial will be based on the information as it
34 exists in the file as of the 59 day mark. No further information from the
35 applicant will be accepted subsequent to that date, nor will any extension be
36 approved.

- 1 g. If the Hearing Examiner determines that the application does not meet the
2 requirements of the Comprehensive Plan, this Article, and the Code of Laws
3 and Ordinances of Charlotte County, the application shall be denied and such
4 determination shall be deemed final.
- 5 h. If the Hearing Examiner determines that the application does meet the
6 requirements of the Comprehensive Plan, this Article, and the Code of Laws
7 and Ordinances of Charlotte County, the application shall be approved and
8 such determination shall be deemed final. In this event:
- 9 1) The applicant shall satisfy any outstanding requirements.
- 10 2) A permit shall be issued. The permit holder and the lot owner, if not
11 the same, shall be responsible for complying with all regulations and
12 conditions of the permit and the Code of Laws and Ordinances of
13 Charlotte County.
- 14 3) The permit shall be posted at the site throughout the term of the
15 excavation.
- 16

17 **Section 3.5.472 Specific Earthmoving Permit Variances.**

18 Variances to the standards may be requested. The request must be included in the submitted
19 application.

- 20 **A.** Variance requests for Specific Minor Earthmoving operations shall be granted or denied by
21 the Administrator.
- 22 **B.** Variance requests for Specific Major Earthmoving operations shall be granted or denied by
23 the Hearing Examiner.
- 24 **C.** As a condition to any requested Earthmoving Variance, the applicant must establish the
25 following prerequisites to the satisfaction of the Administrator or Hearing Examiner before
26 granting of the Variance:
- 27 1. The variance requested is not contrary to the public interest or otherwise
28 detrimental to the public welfare.
- 29 2. Strict adherence to the provisions of the standards would place an undue burden or
30 hardship upon the operation due to unique conditions of the site and that hardship
31 was not caused intentionally by an action of the applicant.
- 32 3. The granting of a variance would not be injurious to or incompatible with contiguous
33 uses or to the surrounding neighborhood or to the environment.
- 34 4. The hardship or conditions cannot reasonably be corrected or avoided by the
35 applicant, there is no reasonable alternative, and the requested variance is the
36 minimum modification of the standard at issue that will afford relief.

- 1 D. Expenses and other monetary considerations are not a basis for proving undue burden or
2 hardship.
- 3 E. The Administrator or Hearing Examiner may add such conditions as deemed necessary in
4 connection with the granting of any Earthmoving Variance.
- 5 F. The specifics of an approved Earthmoving Variance, along with any accompanying
6 conditions, shall be listed on the permit.
- 7

8 **Section 3.5.473 Specific Major Earthmoving Permit Action by Hearing Examiner.**

9 The Hearing Examiner shall hold a public hearing on Specific Major Earthmoving applications. The
10 Hearing Examiner shall be considered the approving authority. A determination of approval or denial
11 shall be deemed final.

12

13 **Section 3.5.474 Specific Major Earthmoving Permit Public Hearings.**

14 A public hearing on Specific Major Earthmoving applications shall be quasi-judicial. The Hearing
15 Examiner shall consider the substantial competent evidence presented by the applicant, the applicant's
16 agents and consultants, County Staff and the public together in deciding if the application is consistent
17 with the Comprehensive Plan, this Article, and the Code of Laws and Ordinances of Charlotte
18 County. The applicant has the burden of establishing that all requirements have been met. The County
19 shall state whether the requirements for approval of the application, whether in whole or in part, have
20 been met and the reasons.

21

22 **Section 3.5.475 Specific Earthmoving Permit Appeal of a Decision.**

23 An applicant may appeal a decision of the Administrator to the Hearing Examiner. Decisions of the
24 Hearing Examiner may be appealed by filing a Petition for Certiorari in the Circuit Court of the
25 Twentieth Judicial Circuit in and for Charlotte County in accordance with the Florida Rules of Appellate
26 Procedure for the review of quasi-judicial decisions of a local government entity.

27

28 **Section 3.5.476 Specific Earthmoving Permit Annual Report.**

- 29 A. An annual report shall be submitted to the Administrator for each Specific Earthmoving
30 Permit in the manner as required in the County's reporting form.
- 31 B. The annual report shall be submitted, including any applicable fees, on or before December
32 31 of each calendar year following the permit issuance date and shall include all activity
33 through October 1 of that calendar year. For permits issued on or after October 1 of any
34 calendar year, the Applicant may submit the first annual report on the second December 31
35 following the permit issuance and on December 31 of each calendar year thereafter.
- 36 C. Failure to file the required annual report shall be grounds for suspension of the activity
37 authorized by the permit; however, an extension of time for filing may be granted by the

Administrator for reasonable cause upon a written request received by the Administrator prior to the date that the report is due.

Section 3.5.477 Specific Earthmoving Permit Modifications.

Modifications to an approved permit are Major or Minor Modifications. If a modification application is not approved within one year of the submittal date, it shall be considered void.

A. A Major Modification is only applicable to a Specific Major Earthmoving permit. Major Modifications must be approved by the Hearing Examiner. The following are considered Major Modifications:

1. Expansion or reconfiguration of excavation footprint.
2. Extension of permit expiration date beyond the two extensions allowed in Section 3.5.479.
3. Change to quantity of material to be excavated.
4. Increase in depth of excavation.
5. Change to blasting, drilling or hammering or other permit restrictions.
6. Request to add accessory activities.
7. Change to any special conditions or stipulations placed on the permit.
8. Any modification to excavation or reclamation plans deemed by the Administrator to be a major difference from the original approval.

B. Any changes to a Specific Minor Excavation permit will be considered a Minor Modification, which shall be approved by the Administrator. Any changes not considered a Major Modification to a Specific Major Earthmoving permit will also be considered a Minor Modification.

Section 3.5.478 Earthmoving Permit Period of Permit Validity.

A. The term of an approval for a Standard Earthmoving Permit shall not exceed one year unless otherwise stated on the permit.

B. The term of a Specific Earthmoving Permit shall commence upon the approval of the permit by the Administrator or Hearing Examiner and will be valid for the following lengths of time:

1. Specific Minor Earthmoving permits
 - a. The term of an Ag Minor Excavation permit shall not exceed 1 year.
 - b. The term of other Specific Minor Earthmoving permits shall not exceed 5 years.
2. Specific Major Earthmoving permits
 - a. The term of a FARMS Excavation permit shall not exceed 10 years.
 - b. The term of a Commercial Excavation permit shall be as mutually agreed upon by the County and the applicant, not to exceed 50 years.

Section 3.5.479 Earthmoving Permit Extensions.

An applicant may request an extension to the period of permit validity of an Earthmoving Permit. For Standard Earthmoving and Specific Minor Earthmoving permits, such request for extension shall be submitted at least 90 calendar days prior to the permit expiration date. For Specific Major Earthmoving permits, such request shall be submitted at least 150 calendar days prior to the permit expiration date. Requests for extension subsequent to these timeframes shall not be accepted. Permit extensions may be requested two times for two years each for a total of four years.

Section 3.5.480 Earthmoving Permit Inspections.

- A. The Administrator shall have the right to inspect the lands affected under this Article. This right shall extend to lands already permitted to ensure compliance with this Article and all conditions of the permit, as well as those lands where the applicant has submitted an application for the issuance of a permit under this Article.
- B. Inspections of permitted activities shall be performed at least annually. An inspector shall attempt to give at least 72 hours' advance notice and upon arrival the inspector shall attempt to contact operating personnel. Inspections needed in response to a complaint require no advance notice.
- C. A copy of all required local, State and Federal permits and reports must be available for inspection on site at all times.
- D. A copy of the site plan must be available for inspection on site at all times.

Section 3.5.481 Earthmoving Permit Monitoring Reports

Copies of all reports required by State or Federal agencies shall also be simultaneously submitted to the Administrator.

Section 3.5.482 Earthmoving Permit Violations

- A. Any person with any property interest in an earthmoving site as well as the permittee shall be responsible for any violation of this Article.
- B. It is unlawful for any person to violate or fail to comply with the provisions of this Article, any provisions adopted by reference herein, and of a permit issued pursuant to this Article. If at any time during the term of a permit, the Administrator finds that the provisions of an Earthmoving Permit, this Article, or other applicable law have been violated, the Administrator may issue a stop work order and, if necessary, initiate a violation of the provisions of this Article before the Code Enforcement Board. The stop work order shall remain in effect until the activity is brought into compliance with the permit.

- 1 C. The validity of a permit shall terminate if there is evidence that the permit is being used for
2 or the land is being prepared for a use other than what was stated in the application. Such
3 evidence may include submittal of an application for a building permit, a special exception,
4 a rezone, a site plan, or similar item.
- 5 D. If an earthmoving operation occurs without an approved, required permit, the violator(s)
6 shall be required to pay quadruple the regular fee for the application appropriate for that
7 activity, in addition to any code violation fees. The County reserves the right to deny the
8 application and require the lot owner to restore the lot to its previous condition.
- 9

10 **Section 3.5.483 Definitions**

11 *Agriculture* means the science and art of production of plants and animals useful to humans,
12 including to a variable extent the preparation of these products for human use and their disposal by
13 marketing or otherwise, and includes aquaculture, horticulture, floriculture, viticulture, forestry, dairy,
14 livestock, poultry, bees, and any and all forms of farm products and farm production.

15 *Confining layer* means the impermeable stratum confining an aquifer.

16 *Cumulative or cumulative impact* means the total impact that results from a proposed earthmoving
17 operation when added to the impacts of other past, present, and reasonably foreseeable commercial
18 or residential development activity.

19 *Depth* means the vertical distance between existing grade and the bottom of an excavation.

20 *Ditch* means a linear trench not exceeding 7 feet in depth as measured from natural grade and 20
21 feet in width.

22 *Dwelling unit* means a structure or portion thereof that is used exclusively for human habitation
23 including living, cooking, and sanitary facilities.

24 *Earthmoving* means any and all activities resulting in the repositioning of earth and the
25 transporting and installing of earth.

26 *Engineer* means a professional engineer registered and certified to practice in the State of Florida
27 who is retained by the permittee, or an agent of the permittee.

28 *Excavation* means the removal of earth, an all-inclusive term, below the existing grade.

29 *Excavation footprint* means the area that is to be excavated up to top of bank.

30 *Fee resolution* means a resolution passed by the Board of County Commissioners that sets forth
31 fees, bond amounts, performance assurance requirements and other amounts payable by an applicant
32 and permittee.

33 *Fill* means the manmade installation or deposition of deposits of earth, sand, gravel, shell or other
34 approved materials to increase the vertical or horizontal extent of land.

35 *Filling* means the act of placing fill on land.

1 *Grading* means leveling, smoothing, and reshaping the ground surface to a level base or specified
2 slope, such as for construction work for a building foundation, the base course for a road, landscape
3 and garden improvements, or surface drainage.

4 *Haul route* means paved or unpaved roads within and outside the site that the permit specifies can
5 be utilized to transport materials to an on-site or off-site destination. The terminus of the haul route
6 shall be the nearest state maintained road.

7 *Lake* means a body of standing water occupying a natural basin or manmade depression in the
8 earth's surface. The term does not include stormwater ponds.

9 *Littoral zone or shelf* means the near shore area of a water body where sunlight penetrates all the
10 way to the sediment and allows aquatic plants to grow.

11 *Lot* means a designated parcel, tract, or area of land established by plat, subdivision, or as
12 otherwise permitted by law, and recorded in the public records of Charlotte County, Florida, to be
13 separately owned, used, developed, or built upon. For the purpose of this Article, a lot is created on
14 such date that a deed for the lot is lawfully first recorded in the public records of the County or the
15 date that a plat has been lawfully recorded in the public records of the County and the lot is a part of
16 the plat.

17 *Lot owner* means a person or persons who own the land that is the subject of the earthmoving
18 activity.

19 *Maintenance dredging* means the excavation of sediments or other materials from presently
20 existing and functional channels, ditches, canals, lakes, impoundments or other waterways of artificial
21 construction to original design elevations.

22 *Natural grade* means the elevation of the original or undisturbed natural surface of the ground.

23 *PARM* means Performance Assurance for Roadway Maintenance

24 *PALR* means Performance Assurance for Land Reclamation

25 *Site* means the portion of a lot that is used for any activity associated with an earthmoving
26 operation.

27 *Sediment barrier* shall mean a physical barrier through which water readily passes and that
28 functions to trap or prevent the passage of sediments suspended within the transmitted water.

29 *Topsoil* shall mean those soils classified as the upper part of the soil which are the most favorable
30 material for plant growth, ordinarily rich in organic matter, and are used to top dress roads, lawns, and
31 land affected by mining or development.